

**CITY OF CHULA VISTA
MINUTES
MOBILEHOME RENT REVIEW COMMISSION**

Thursday, April 14, 2011
6:00 P.M. CLOSED SESSION
6:30 P.M. TIME CERTAIN PUBLIC START

**276 FOURTH AVENUE
PUBLIC SERVICES NORTH, BUILDING 300
HUMAN RESOURCE TRAINING ROOM**

CALL TO ORDER/ROLL CALL – 6:02 P.M.

PRESENT: Steve Epsten, Pat LaPierre, Sam Longanecker, Cesar Padilla, Ramon Riesgo, Mitch Thompson

ABSENT: Rudy Gonzalez (excused)

STAFF: Stacey Kurz, Senior Project Coordinator
Mandy Mills, Housing Manager
Simon Silva, City Attorney

Chair Padilla announced that the meeting would now be closed to the public until 6:30 when it would be reopened to resume with the agenda. The closed session item was as follows:

1. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a)

❖ Brentwood MHP Investors, LLP v. City of Chula Vista, San Diego Superior Court Case No. 37-2010-00079506-CU-WM-SC

Members of the public were asked to join the Commission and at 6:54 pm Chair Padilla announced the reopening of the meeting. Attorney Silva indicated that pursuant to the Brown Act, the Commission is able to meet in closed session for ongoing litigation; however there were no reportable items from the closed session item. He further indicated that the Writ Hearing was set for the South County Court Facility (H Street and Third Avenue in Chula Vista) in Judge Cannon's Department #4 on April 22nd at 8:30 a.m.

2. APPROVAL OF MINUTES

January 20, 2011

Member Riesgo made a motion to approve the minutes. Member Longanecker seconded the motion. All members (4-0) agreed to the approval of the minutes.

3. POTENTIAL AMENDMENTS TO THE RENT REVIEW ORDINANCE

Staff Kurz provided a presentation; see Exhibit 1, of proposed changes and updates to the Mobilehome Rent Review ordinance, Chapter 9.50 of the City's Municipal Code (It should be noted that 21 residents and 9 park owners were in attendance for this item). She indicated that these proposed amendments were based on referrals provided by the Commission, clarifications of the ordinance that staff has noted over the past years since the ordinance was last updated in 2002 and the need to establish a permanent funding source for rent review administration as follows:

Administrative Fee – This item is driving the urgency of the update process due to the continued funding cuts to housing from state and federal sources and the potential for the funds currently being used to administer rent review from the Housing Authority, the only eligible funding source other than general fund monies. This would be a new section of Chapter 9.50 establishing a permanent fund for staff time and other costs (i.e. hiring of experts for fair return analysis and MAI appraisers) associated with the administration of the rent review ordinance. The fee would be assessed annually, and approved by City Council, on all mobilehome resident spaces qualifying for protection under CVMC 9.50.

Clarifying Language-

"Voluntary" Meeting - Appendix One provides a sample Notice of Rent Increase including resident rights under the municipal code and identifies a "Voluntary Meeting". The term "Voluntary" is misleading as a resident must attend the meeting in order to be eligible to petition a rent increase and therefore staff recommends updating Appendix One to reference a "Mandatory Meeting".

Effective Date of Increase - Based on a referral after the Brentwood hearing, the ordinance addresses the ability for the MHRRC to set a date other than the park owner's legally noticed date in the Notice of Rent Increase. The amendment would add language to clarify that the MHRRC only has the ability to set a date different than that in the Notice of Rent Increase if the Commission makes a finding that the park owner was non-responsive to the hearing process.

Change of Ownership - The ordinance provides the MHRRC a menu of factors that may be considered when reviewing proposed rent increases for existing/incumbent residents and change of ownership cases. The MHRRC has historically only asked for one factor, comparable rents, for change of ownership cases, primarily allowing the market to influence increases. The ordinance amendment therefore provides clarity to differentiate between existing resident increases and change of ownership.

Staff has not yet determined a single recommendation in this area, but is providing a range of options that could be considered in revising the ordinance in order to solicit discussion this evening. She further indicated that the mechanics and logistics were not solidified, but at this point staff would not support a fee that was split evenly between owners and residents, since staff acknowledges rent control only benefits the residents. Staff Kurz provided a range of options as seen in slide #7 from a fully controlled environment to a decontrolled one. She pointed out that a market driven system would really only be the last two options where the right to petition was removed on change of ownership, however staff would most likely recommend one of the following:

Annual maximum caps - The MHRRC would set annual caps (based upon comparable market space rents) for rent increases upon change of ownership, thereby eliminating rent review upon change of ownership for parks setting rents below the caps.

Temporary decontrol - Upon change of ownership the ability to petition increases would be removed, allowing the market to drive resale rents. Once a new resident was in place and had a qualifying lease under CVMC 9.50, they would again qualify for rent review and the annual permissive increase.

Staff Kurz concluded the presentation indicating that after soliciting discussion tonight, staff would begin drafting amendment language, hold a public meeting, return to the Commission May 19th (later postponed until May 31st) at 6 p.m. in Council Chambers and take forward the amendments to Council in June. She indicated that the Commission would be asked to provide a recommendation to City Council, but ultimately the decision would be Council's.

Chair Padilla opened the discussion to the Commission for clarifying questions of staff.

Chair Padilla asked whether the MHRRC will approve what moves forward to Council. Staff Kurz replied indicating that Council will receive notification in the staff report of the MHRRC advisory recommendation. He further asked whom would determine how the fee was spent and how you would account for variances. Staff Kurz and Mills provided responses indicating that there would be coordination between staff and the MHRRC on the hiring of experts and spending of money for those purposes, the City would annually determine the expected administrative fees, and there would have to be a contingency built into this to consider those more expensive years.

Member Epsten asked if litigation occurred and the City had to pay out of the pot of money in a particular year how that would affect the administrative fees. Attorney Silva replied indicating he believes litigative expenses would be outside of this fee, sources such as insurance and other monies would be used.

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Member Riesgo asked whether the fee would be split between park owner and resident. Staff Kurz indicated that at this point the logistics of the fee had not been decided, but staff would not be recommending a 50/50 split such as in Oceanside, since staff acknowledges that the rent review ordinance favors residents only.

Member Thompson asked for further detail on the funding that has been used in the past for this administration. Staff Mills responded, currently we are using Housing Authority money from Bond Admin Fee Reserves. There is currently a surplus in fees collected versus the cost to monitor.

Member Thompson asked whether since this is a fee, it also should be directed for the intended monitoring purpose and therefore would this also make this source ineligible. *Staff Mills provided the following response to Member Thompson, after the meeting via email: The fee is an agreed upon fee in negotiations, as opposed to a Building Permit Fee or an Impact Fee, therefore not restricted. In the past few years the City has been able to charge project and monitoring costs to funds such as Low/Mod or HOME, therefore a small reserve was growing annually. With the definite cuts to CDBG and HOME, and probable caps on Low/Mod Admin, those Bond Admin Fees will be critical to cover mandatory monitoring costs. Therefore, we need to find a way to minimize and cover mobilehome expenses.*

Staff Mills further indicated that of the other sources the City receives for Housing such as Redevelopment Low/Mod funds and HUD (CDBG and HOME) federal grants, they have higher regulations, and therefore we have no other sources other than Housing Authority funds. In addition, over the years various sources were used and have been challenged as to eligibility.

Member Longanecker asked if a fee is collected could it be used for other purposes. Staff Kurz replied indicating that an Administrative fee would only be used for the purposes as identified in the ordinance. Attorney Silva further indicated that under the Government Code it would have to be used for the purposes collected.

Chair Padilla invited anyone interested in speaking on this item to submit a speaker slip and the following members of the public spoke:

Steve Molski, resident of Terry's and COMOCAL representative – Mr. Molski indicated he was not opposed to the fee, however was opposed to any form of decontrol since this would allow no maximum rents.

Randy Terry, park owner – Mr. Terry supported decontrol of the parks on change of ownership.

John Baldwin, Bayscene owner – Mr. Baldwin indicated that he is also past president of the City of San Diego Mobilehome Commission and that they have no rent control and referenced the County where they also have no rent control. He further indicated that the Chula Vista system has failed and Jade Bay was the example of why.

Irene Bourke, resident of Granada – Ms. Bourke provided financial data regarding her calculations of income to park owners and expressed her concerns about utility increases and other expenses that mobilehome residents must take care of such as maintenance and taxes. She also indicated that residents have responsibilities far beyond those living in apartments, such as the responsibility for the estate of owners to continue paying rent even after a death of the occupant and that after 3 months of non-payment the park owners take possession of the coach. She expressed concerns of the administrative fee increasing over the years.

Penny Vaughn, President of Chula Vista Mobilehome Residents Association and GSMOL representative – Ms. Vaughn asked if the Statute of Limitations would become an issue for park owners to challenge changes to the ordinance within the first two years? Attorney Silva provided a response indicating that you can always challenge the unconstitutionality of a portion of the ordinance.

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Virginia Jensen, park owner – Ms. Jensen disputed the testimony of Ms. Bourke indicating that the financial figures provided were inflated and did not take into consideration expenses and liability. She further clarified that the park owner does not always take possession of a vacant unit within 90 days and they work with the public administrator to sell the units. She indicated they currently have 11 vacant spots in a park and this is a lot. She indicated parks are starting to look at maintenance issues of older parks and the possibility of converting to family parks.

Jim Matney, resident of Chula Vista MH Park – Mr. Matney expressed his concern that this topic is a predictable outcome of the stakeholder group he participated in last year, indicating that the issue of decontrol is exactly what park owners requested.

Daniel Cacho, park owner – Mr. Cacho indicated that the charge of the Commission is to stay fair and that there are consequences of the Commission actions. He further indicated that park owners continue to have increased costs and have received little to no CPI increases in the past few years. He concluded indicating that some of his residents live a very nice lifestyle and have other properties but still benefit from rent control in his park.

Nap Sellers, Property Manager of Mountain View – Mr. Sellers suggested that the City look into litigation that took place in the City of San Diego regarding a rental fee.

Chair Padilla closed the public portion of the agenda item and asked for Commission discussion.

Member Epstein asked whether staff intended to require a portion of the fee be paid by the park owner and indicated that he would be opposed to that since rent control is to the benefit of the residents and last year in Oceanside he paid his fees and ended up getting no increase.

Chair Padilla suggested consideration of a percentage cap as oppose to the maximum dollar amount cap since those spaces that have low rents in low rent parks could be targeted by dealers over those parks with higher rents. He further expressed concern about total decontrol and park owners being unreasonable with rent increases.

Member Thompson expressed his desire to make changes of a "smart government" and be strategic in choices, such as looking at the incumbent annual permissive and ways to more accurately reflect market increases faced by park owners through the permissive rent increases. He suggested you might look at some type of matrix that looked at a variety of variables in addition to CPI, like utility costs. He also indicated on change of ownership we may want to consider looking at another option not presented whereby cases would set precedence for parks for a period like six months or developing caps that are formula based, looking at years since the unit last changed ownership to address the concerns that Chair Padilla expressed regarding low rents being targeted.

Member LaPierre indicated that he likes the City's system of looking at comparables and believes staff does a good job of surveying and providing recommendations to the Commission, whereby good parks are rewarded. He did not think the percentage cap approach on change of ownership would work but favors dollar caps at market.

Member Epstein commented that it is interesting the Commission believes staff does a good job at analyzing however when the Commission makes decisions they almost always lower staff recommendation. He further believes that sometimes Commissioners have a political agenda, particularly since they are appointed by Council members; however he believes we currently have a good Commission. He concluded indicating they have been down this road before, and a subcommittee consisting of all parties came to a resolution years ago on amendments, but when the item went before Council they backed down and favored residents.

Member LaPierre indicated that maybe staff should consider providing the Commission with a comparable range as oppose to a specific dollar amount and Staff Kurz replied indicating that as

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appropriate staff has done that as can be seen in the January 2011 hearings when they indicated a range for Rancho Bonita and a specific dollar recommendation for Palace Gardens.

Chair Padilla expressed that he found it interesting that the majority of the conversation and opposition to tonight's amendments were in regards to change of ownership that mainly affect persons not even present this evening, but the administrative fee that would have a direct and immediate effect to current residents was not being opposed or discussed. He further indicated that he believes this fee would increase over the years due to continued increases in administration fees, etc.

Member Epstein asked Ms. Vaughn if she believed park owners should pay a portion of the fee. Ms. Vaughn replied indicating that she did not, she believes the residents should pay 100% of the fee.

Member Epstein expressed concerns over the collection of the fee and the ability to recoup funds paid to the City in cases where residents did not pay them and the assurance that the fee would be available for an entire year and not run out. Attorney Silva indicated he was not concerned about recouping funds as there are several ways to build remedies into the ordinance regarding. Staff Mills added that we would likely have to build a contingency into the fee in order to address annual fluctuations.

Chair Padilla suggested projecting the fee forward for a three year period with inflation in order to address some of these issues and provide residents with assurance that the fee would not continue to increase annually.

4. STAFF COMMENTS

Staff Mills indicated that just yesterday the City Manager's office indicated that there may be a desire to take forward a complete package of mobilehome updates including the Title 25 inspection program which was up for consideration to be returned to the State of California and the outstanding work that had been done on the mobilehome closure ordinance in 2007. She indicated she should know more in the next two weeks.

Staff Kurz reminded all Commission members of the Boards and Commission Recognition event for June 6, 2011.


5. MEMBER'S COMMENTS

None.



6. PUBLIC COMMUNICATIONS


None.

7. ADJOURNMENT – Meeting was adjourned at 8:37 p.m. to a special joint meeting of April 27, 2011 with the Housing Advisory Commission at 6 p.m. in the same location.



Recorder, Stacey Kurz

*Development Services
Department*






CVMC 9.50

Mobilehome Rent Review

Potential Amendments

4/14/11



*Development Services
Department*



CVMC 9.50

Ordinance Update Goals

- Take forward complete package
- Establish permanent fund for administration
- Clarify ambiguous language
- Address change of ownership language vs practice

*Development Services
Department*



Administration
CVMC 9.50 Rent Review Ordinance

ISSUES

- Funds not currently available for experts
 - MAI Appraisers
 - Fair Return Analysis
- Staff time currently paid out of Housing Authority
 - Funding cuts

SOLUTION

- Establish assessment fee for all spaces under CVMC 9.50



*Development Services
Department*

Administration
Proposed Fee Assessment

- Fee based on annual administration fees
 - Staff ombudsman
 - Staff administration of CVMC 9.50
 - Mandatory tracking (addition to current CVMC 9.50)
 - Hiring of experts, MAI appraisers and fair return analysis



EXAMPLE

Annual average = \$75,000 per year
2,880 (appr. 80% of spaces) = \$26/year

*Development Services
Department*



CVMC 9.50
Rent Review Ordinance Clarifications

- "Voluntary" Meeting = "Mandatory" Meeting
- Effective date of increases
 - Legally noticed date unless Commission deems the park owner non-responsive

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CVMC 9.50.077
Vacancies and Rents Upon Change of Mobilehome Ownership

- Setting precedent
 - Discussion at 1/20/11 meeting
- Intent of ordinance & Commission
 - Market driven

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Change of Ownership Range of Options

Control

- Must petition for any increase



- Tenant petitions / base increase on comparables

- Set annual maximum caps

- Temporary decontrol upon sale
- New resident eligible under CVMC 9.50

Decontrol

- Permanent decontrol upon sale

*Development Services
Department*

CVMC 9.50 Next Steps

- Commission input
- Draft ordinance amendments
- Public Meetings
 - May
- Bring to MHRRC on May 19th
- Council hearing in June